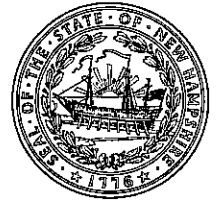




The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

February 19, 2009

The Honorable Martha Fuller Clark  
Senate Energy, Environment, and Economic Development Committee  
Legislative Office Building, Room 102  
Concord, New Hampshire 03301

**Re: SB 168, AN ACT establishing the Coastal Watershed Alliance**

Dear Chairman Fuller Clark:

Thank you for the opportunity to comment on Senate Bill 168, which repeals the Estuary Alliance for Sewage Treatment (EAST) created under Chapter 485-E and creates the Coastal Watershed Alliance. The Department of Environmental Services (DES) generally supports SB 168 but has concerns noted below that we believe should be addressed during deliberation on the bill.

If enacted, SB 168 would authorize communities to address water quality concerns in the Seacoast watershed in a coordinated and comprehensive manner. At a minimum, the proposed Coastal Watershed Alliance (CWA) provides a mechanism for and encourages the use of joint infrastructure projects. As the CWA matures, it has the potential to address the complicated interrelation of land use, water quality and infrastructure needs in the region.

Nutrients (phosphorus and nitrogen) are leading causes of surface water impairment in New Hampshire. This is especially true in the coastal watershed, where nutrients in discharges from wastewater treatment facilities and stormwater runoff have been shown to cause degradation of eel grass and oxygen depletion in Great Bay. As a result of these impairments, coastal watershed communities are faced with stringent limits on their nutrient contributions to surface waters. Meeting these stringent limits will be very costly to individual communities acting alone.

Traditionally, communities have addressed removal of nutrients only from discharges at wastewater treatment facilities. There is a point, however, at which nutrient removal at wastewater treatment facilities is neither cost effective nor feasible. In these cases, communities may be required to remove nutrients from both wastewater treatment facility discharges and stormwater runoff to meet their overall nutrient removal requirements. Regional attention to nutrient removal via a nutrient trading system may be a cost effective means of achieving required water quality improvements. The CWA could provide a community driven approach to such as system.

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One of the stated objectives of the CWA is to foster improved municipal and intermunicipal land use planning and regulation to encourage low impact development and advance the state's economic growth, resource protection and planning policy. Although DES has some reservations about implementation of incentives for this activity, we strongly support this objective. The Coastal Watershed Protection Planning (CWPP), Score Program created under section 485-E:7, will create an objective evaluation process and provide incentives to encourage municipalities to take constructive steps toward improved land use and water resource protection. Similar programs in other New England states have been highly successful in influencing local planning activities.

DES has some concerns regarding the implementation of the CWPP Score Program. These concerns are outlined below:

- DES is concerned that the legislation prescribes the relative weight to be given to program-specific criteria and the CWPP score. DES recommends that the bill provide agencies with flexibility in identifying an appropriate weighting scheme that is faithful to the objective of this legislation for each program.
- DES is concerned about having two different sets of criteria for State Revolving Fund (SRF) projects, one for CWA and one for non-CWA communities. DES is required to develop a Project Priority List (PPL) each year for projects funded from the SRF. The PPL is developed using federally required criteria to rank projects. DES recommends the use of the PPL ranking criteria with an additional ranking criterion that awards points to alliance members in lieu of the CWPP Score Program. This would provide the incentive envisioned under 485-E:7 but eliminate the confusion of two scoring systems.
- 485-E:10 would require DES to make SRF funds available to an alliance community under more favorable terms including a lower interest rate. The SRF employs the federal interest rate established each year as a function of the so-called 11- bond index. A better incentive may be to allow an enhanced state aid grant (SAG) provided under RSA 486:1 to exemplary alliance members when such grants become available. This incentive may also be included in 485-E:9.
- The SRF traditionally provides low interest loans to named municipalities for specific pollution control projects. DES would not be able to provide these loans directly to the CWA until and unless it has the ability to borrow and repay debt. Until that time, member communities would have to act on behalf of the CWA.
- DES is committed to assisting all municipalities in the state as they develop innovative approaches to infrastructure and planning. The SRF program currently provides

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guidance to municipalities on SRF and SAG matters. This legislation would require both the Watershed and SRF programs at DES to provide "technical assistance" to member communities. DES' capacity to provide the required technical assistance is limited to our existing programs. Since there are no additional funds provided for this effort, the scope of technical assistance should be developed further so that DES understands what its commitments and limitations will be in this area. The Committee may wish to discuss the use of the CWPP Score as a method of allocating existing technical assistance resources.

- We are concerned that without some additional source of revenue for the CWA, it will be difficult for it to attract members to the point it has the "critical mass" necessary to achieve its potential as an agent for environmental improvement. The CWA may also wish to engage the regional planning commission to assist in planning and applying for additional funding such as that provided by the New Hampshire Municipal Bond Bank, United States Department of Agriculture Rural Development, United States Economic Development Administration, and Community Development Finance Authority, etc.

Finally, the Committee may wish to include water supply infrastructure in the bill as an activity in which the state encourages municipalities to coordinate and jointly invest. Wastewater, stormwater and water supply infrastructure are all related in a number of ways from protection of critical water supplies to volume of wastewater to recharging aquifers. Adding water supply expressly will complete that triumvirate of community water infrastructure needs.

If you have any questions or need additional information, please do not hesitate to call Ted Diers at 271-7940, or me at 271-2958.

Sincerely,

  
for Thomas S. Burack  
Commissioner

TSB/ted

cc: Senator Margaret Hassan  
Senator Jacalyn Cilley  
Senator Amanda Merrill  
Representative David Borden  
Representative Donna Schlachman  
Representative Susan Kepner  
Representative Judith Spang